

REMARKS

Claims 1-52 were presented for examination in the present application, and claims 1-3, 10-14, 16, 18-20, 22-33, 37, 38, and 40-52 are presented for consideration upon entry of the instant amendment. Claims 4-9, 15, 17, 21, 34-36 and 39 are canceled. Claims 1, 22, 32, 46, and 51 are independent. Reconsideration of the application is respectfully requested.

Claims 1-52 stand rejected under 35 U.S.C. 103(a) as being unpatentable over (i) U.S. Patent Publication No. 2004/0005042 to Dhara et al. (hereinafter "Dhara"), in view of (ii) U.S. Patent No. 6,970,553 to Gao et al. (hereinafter "Gao"), in view of (iii) U.S. Patent Publication No. 2003/0202642 to Wheeler et al. (hereinafter "Wheeler"). Claims 4-9, 15, 17, 21, 34-36 and 39 are canceled rendering the rejection thereto moot.

Claim 1 recites, in part, an apparatus that includes a messaging client that, when an availability detector indicates, that a destination device is unavailable: (a) obtains addressing information of the destination device; (b) generates a message on a communication device; and (c) sends the message via the communication device to the destination device in accordance with the addressing information, upon receipt of a command from a user of the communication device.

Independent claim 32 recites, in part, a method executed by a communication device that includes if a destination device is unavailable, then: (a) obtaining addressing information of the destination device; (b) generating a message on a communication device; and (c) sending the message to the destination device in accordance with the addressing information, upon receipt of a command from a user of the communication device.

The Office Action asserts that Dhara discloses a messaging initiator associated with said availability detector for launching said messaging client (the Office construes the phrase "launching the messaging client" as sending a message to the client to

display a pop-up window on the client device), when said destination is unavailable (i.e. called party dialog 132 may send an instant message to calling party device 102 to indicate the called party's busy status) (Figure 2; paragraph 23). However, paragraph [0023], lines 4-8 of Dhara provides "In this first example, called party telephony device 116 is busy. Calling party dialog instance 132 then routes the call to voice mail system 122, a third party telephone 118 or take [sic] other action depending on the script." Paragraph [0023], lines 13-17 further provides "Additionally, called party dialog instance 132 may send an instant message to calling party cellular telephony device 102 to indicate the called party's busy status, to give an alternative time to call, or to send another message." Therefore, although Dhara provides sending an instant message to calling party and routing the call to voice mail system 122, a third party telephone 118 or takes other action depending on the script when the called party telephony device 116 is busy, Dhara fails to disclose or suggest an apparatus that includes a messaging client that, when the availability detector indicates that the destination device is unavailable: (a) obtains addressing information of the destination device; (b) generates a message on the communication device; and (c) sends the message via the communication device to the destination device in accordance with the addressing information, upon receipt of a command from a user of the communication device, as recited by claim 1, or a method executed by a communication device that includes if the destination device is unavailable, then: (a) obtaining addressing information of the destination device; (b) generating a message on the communication device; and (c) sending the message to the destination device in accordance with the addressing information, upon receipt of a command from a user of the communication device, as recited by claim 32.

Further, claims 1 and 32 now recite addressing information of the destination device similar to dependent claim 3. In item 4 of the Office Action, the Office Action asserts with regard to claim 3 that Dhara discloses providing destination device addressing information to said messaging client (i.e. the "instructions" are forwarded to the calling party telephony device, which then transmits the instructions 210 to the calling party dialog, and then to the called party dialog 222, therefore there inherently must be some destination information provided to the calling party in order to correctly

forward instructions back to the called party dialog) (Figure 2). However, as shown in Figure 2, although the instructions are transmitted from the calling party telephony device, the instructions do not reach the called party telephony device. Thus, transmitting instructions from the calling party telephony device to the called party dialog 222 as provided by Dhara, does not inherently disclose or suggest addressing information of the destination device, as recited by claims 1 and 32.

In addition, claim 1 now recites a messaging client that sends the message via the communication device to the destination device in accordance with said addressing information, upon receipt of a command from a user of the communication device, and claim 32 now recites sending the message to the destination device in accordance with the addressing information, upon receipt of a command from a user of the communication device similar to dependent claim 9 that is now canceled. In item 10 of the Office Action, the Office Action asserts with regard to claim 9 that Dhara discloses the messaging client is operable to send said message upon a user command (i.e. the calling party transmits the information regarding the disposition of the call) (Figure 3; paragraph 36-39). However, paragraph [0036], lines 3-6 provides that "The called party dialog requests the status of the called party telephony device 308, which is delivered in step 310. In this example, the status is 'idle'." Therefore, although paragraph [0038] of Dhara provides that the calling party transmits the information from his or her telephony device 324, which is received at calling party dialog when the called party telephony device has a status of idle, Dhara fails to disclose or suggest an apparatus that includes a messaging client that, when the availability detector indicates that the destination device is unavailable: (a) obtains addressing information of the destination device; (b) generates a message on the communication device; and (c) sends the message via the communication device to the destination device in accordance with the addressing information, upon receipt of a command from a user of the communication device, as recited by claim 1, or a method executed by a communication device that includes if the destination device is unavailable, then: (a) obtaining addressing information of the destination device; (b) generating a message on the communication device; and (c) sending the message to the destination device in accordance with the addressing

information, upon receipt of a command from a user of the communication device, as recited by claim 32.

Applicant respectfully submits that the Office Action fails to assert that Gao or Wheeler remedies the deficiencies described above for Dhara.

Accordingly, the cited combination of Dhara, Gao and Wheeler fails to disclose or suggest claims 1 and 32.

Claims 2, 3, 10-14, 16, and 18-20 depend from claim 1, and claims 33, 37, 38, and 40-45 depend from claim 32. By virtue of this dependence, claims 2, 3, 10-14, 16, 18-20, 33, 37, 38, and 40-45 are also patentable over the cited combination of references.

Applicants are respectfully requesting reconsideration and a withdrawal of the section 103(a) rejection of claims 1-3, 10-14, 16, 18-20, 32, 33, 37, 38, and 40-45.

Independent claim 22 recites, in part, a message sender associated with an availability detector for sending to an originating communication device a message comprising an address of a destination device when the availability detector indicates unavailability of the destination device.

Independent claim 46 provides, in part, that if a destination device is unavailable, then sending to an originating communication device a message comprising addressing information of the destination device.

Independent claim 51 recites, in part, using the trigger signal to provide addressing information of the destination device to the messaging client.

As discussed above, in paragraph [0023], lines 4-8 of Dhara provides "In this first example, called party telephony device 116 is busy. Calling party dialog instance 132

then routes the call to voice mail system 122, a third party telephone 118 or take [sic] other action depending on the script.” Paragraph [0023], lines 13-17 further provides “Additionally, called party dialog instance 132 may send an instant message to calling party cellular telephony device 102 to indicate the called party's busy status, to give an alternative time to call, or to send another message.” Therefore, Dhara provides sending an instant message to calling party and routing the call to voice mail system 122, a third party telephone 118 or takes other action depending on the script when the called party telephony device 116 is busy. In addition, as discussed above regarding claims 1 and 22, Dhara provides transmitting instructions from the calling party telephony device to the called party dialog 222, however, fails to disclose or suggest addressing information of the destination device. Similarly, Dhara fails to disclose or suggest a message sender associated with the availability detector for sending to the originating communication device a message comprising an address of the destination device when the availability detector indicates unavailability of the destination device, as recited by claim 22, that if the destination device is unavailable, then sending to the originating communication device a message comprising addressing information of the destination device, as recited by claim 46, or using the trigger signal to provide addressing information of the destination device to the messaging client, as recited by claim 51.

Applicant respectfully submits that the Office Action fails to assert that Gao or Wheeler remedies the deficiencies described above for Dhara.

Accordingly, the cited combination of Dhara, Gao and Wheeler fails to disclose or suggest claims 22, 46, and 51.

Claims 23-31 depend from claim 22, claims 47-50 depend from claim 46, and claim 52 depends from claim 51. By virtue of this dependence, claims 23-31, 47-50 and 52 are also patentable over the cited combination of references.

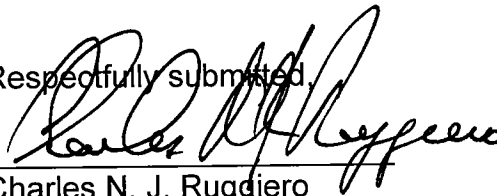
Applicants are respectfully requesting reconsideration and a withdrawal of the section 103(a) rejection of claims 22-31, 46-50, 51 and 52.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicant's attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

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Respectfully submitted,



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